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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

**FORTUNE GROWERS, LLC, a Nevada
limited liability company,**

Case No.: 3:07-cv-2088

Plaintiff,

vs.

SOUTHERN CITRUS, INC., a California corporation; HANA GIBO, an individual; SABAH YOUNKHANNA, an individual; and BROADWAY FARMERS MARKET, INC., a California corporation, Defendants.

**AFFIDAVIT OF STEVEN M.
DE FALCO IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SERVICE OF SABAH YOUKHANNA
BY PUBLICATION**

STATE OF FLORIDA)
) ss
COUNTY OF COLLIER)

1. I am a member of Meuers Law Firm, P.L., attorneys of record for Fortune Growers, LLC ("Fortune Growers")

2. I am over 18 years of age. I have personal knowledge of all matters stated in this Affidavit, and if called as a witness, I would and could completely testify

1 thereto.

2 3. This Affidavit is made pursuant to Cal. Code Civ. Proc. §415.50(a)(1) in
3 support of Fortune Growers' Motion for Service by Publication.

4 4. On November 14, 2007, Fortune Growers filed its First Amended
5 Complaint against Defendants, Southern Citrus, Inc., Hana Gibo, Sabah Youkhanna,
6 and Broadway Farmers Market, Inc. [Docket No. 17]. In its Amended Complaint,
7 Fortune Growers alleged, *supra*, that Southern Citrus, Inc., Hana Gibo, and Sabah
8 Youkhanna breached their respective fiduciary duties under the Perishable
9 Agricultural Commodities Act of 1930 and federal common law.
10

11 5. Specifically, between September 18, 2007 and October 3, 2007, Fortune
12 Growers sold to Southern Citrus, Inc., Hana Gibo, and Sabah Youkhanna in interstate
13 commerce, and Southern Citrus, Inc., Hana Gibo, and Sabah Youkhanna purchased
14 from Fortune Growers, Produce in the total amount of \$115,266.40. Southern Citrus,
15 Inc., Hana Gibo, and Sabah Youkhann have failed to make any payments despite
16 Fortune Growers' repeated demands.
17

18 6. On December 2, 2007, Fortune Growers' Summons and First Amended
19 Complaint were served upon Defendants, Southern Citrus, Inc., Hana Gibo, and
20 Broadway Farmers Market, Inc. [Docket Nos. 19, 20, and 21].
21

22 7. Our office attempted to serve Sabah Youkhanna, via a process server,
23 between November 20, 2007 and November 30, 2007, at his last known addresses. Each
24 attempted service failed. See Confirmations of Service of Process, attached as Exhibit
25 "A".
26

8. Since that time, our office has attempted to find an alternate address at which to serve Sabah Youkhanna, but has been unsuccessful.

9. As a principal of Southern Citrus, Inc., Sabah Youkhanna is a necessary and proper party to this action. See, Southern Citrus, Inc.'s PACA license is attached as Exhibit "B", and Southern Citrus, Inc.'s listing in the Blue Book, a produce industry credit reporting service, is attached as Exhibit "C".

FURTHER AFFIANT SAYETH NOT

Steven M. De Falco
Steven M. De Falco, Esq.

STATE OF FLORIDA)
COUNTY OF COLLIER)
) ss

SWORN TO AND SUBSCRIBED before me this 5th day of December, 2007 by
Steven M. De Falco, and who: (*notary must check applicable box*)

Is personally known to me

Produced a current drivers license for identification
State _____ Number _____

Produced _____ as identification

My Commission Expires:

Soralee Castle
Notary Public, State of Florida



Exhibit “A”

| | | | | |
|--|-------|----------------------------------|--------------------|------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Steven De Falco, 0733571 MEUERS LAW FIRM 5395 Park Central Ct Naples, FL 34109 | | TELEPHONE NO.: (818) 712-4218 | FOR COURT USE ONLY | |
| ATTORNEY FOR (Name): Plaintiff | | Ref. No. or File No. | none | |
| Insert name of court, judicial district or branch court, if any: United States District Court 880 Front St. Rm. 4290 San Diego, CA 92101-8900 | | | | |
| PLAINTIFF: Fortune Growers, LLC | | | | |
| DEFENDANT: Southern Citrus, Inc., Hana Gibo, and Sabah Youkha | | | | |
| NON SERVICE REPORT | DATE: | TIME: | DEPT/DIV: | CASE NUMBER: 3:07-cv-2088 |

I am and was on the dates herein mentioned a citizen of the United States, over 18 years of age and not a party to this action, and I received copies of the following:

Summons In A Civil Case; First Amended Complaint

After due search, careful inquiry and diligent attempts at the following address(es), I have been unable to effect service of said process on:
Sabah Youkhanna, an individual

- (1) HOME: 2611 Silver Oaks Way, Spring Valley, CA 91977
- (2) HOME: 12190 Cuyamaca, El Cajon, CA 92019

BY FAX

Process is being returned without service for the following reason(s):

November 20, 2007 08:55 PM at address (1) above. No answer. No activity. No lights on inside.
 November 21, 2007 07:20 AM at address (1) above. No answer. No activity.
 November 22, 2007 12:20 PM at address (1) above. No answer. No activity.
 November 24, 2007 12:00 PM at address (1) above. No answer. No activity.
 November 25, 2007 08:45 PM at address (1) above. No answer. No activity. No lights on inside.
 November 26, 2007 07:05 AM at address (1) above. No answer. No activity.
 November 27, 2007 09:30 PM at address (1) above. No answer. No activity. No lights on inside.
 November 28, 2007 10:45 AM at address (1) above. No answer. No activity.
 November 28, 2007 06:50 PM at address (1) above. No answer. No activity. No lights on inside.
 November 30, 2007 11:35 AM at address (2) above. Not found. Large apt. complex. Subjects name not on directory. No managers on site

Fee for Service: \$ 108.00
 Registered California process server.
 County: SAN DIEGO
 Registration No.: 959
 Expiration: February 11, 2009

Javier Jorge
 One Legal, Inc. - 132-Marin
 504 Redwood Blvd #223
 Novato, CA 94947

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct and that this declaration was executed on December 3, 2007 at Los Angeles, California.

Javier Jorge

Exhibit “B”

Fruit and Vegetable Programs**Search PACA***Search Again* *Go Back to the previous page* 

| License No. | Date Issued | Anniversary Date | Status |
|---|--------------------|-------------------------|---------------|
| 20061053 | 7/11/2006 | 7/11/2007 | Terminated |
| Business Name | | City | State |
| SOUTHERN CITRUS INC | | CHULA VISTA | CA |
| Reported Principal (Last Name, First Name) | | | |
| YOUKHANNA, SABA GIBO, HANNA | | | |
| Trade Names | | | |
| | | | |
| Branch Name , Branch City , Branch State | | | |
| | | | |

Return to: [Perishable Agricultural Commodities Act \(PACA\)](#)

Exhibit "C"

(P) SAN DIEGO, CA
BB #172536
Southern Citrus, Inc.
1626 W. Frontage Rd., Chula Vista.
(91911-3936)
Phone 619 424-9000
FAX 619 424-9009
Cell 619 654-6828
Hana Y. Gibo, Buying & Sales
Full line of Fruits & Vegetables,
Watermelon, Grapes & Oranges
PACA License #20061053
ImpB WmelGsOrFV
Rating (86)

86 = Financial consideration and/or
trade reports prohibit the reporting
of a definite rating.

(See Updates For Any Changes)

--- 4/27/06 UPDATE ---

SAN DIEGO, CA
BB #172536
Sam Produce & Wholesalers.
(Sabah Youkhana, Prop.)
Now incorporated as
Southern Citrus, Inc.
Peter Gibo, Vice Pres.,
now associated
Change address to
1626 W. Frontage Rd., Chula Vista.
(91911-3936)
(71) Phone 619 424-9000
FAX 619 424-9009

71 = Following is change in, or
addition to, listing information --

(P) SAN DIEGO, CA
Southern Citrus, Inc.
1626 W. Frontage Rd., Chula Vista.
(91911-3936)
Phone 619 424-9000
FAX 619 424-9009
Cell 619 654-6828
PACA License #20061053
Hana Y. Gibo, President
Sabah Youkhana, Secretary/Treasurer
ImpB WmelGsOrFV ... (86)

86 = Financial consideration and/or
trade reports prohibit the reporting
of a definite rating.

--- 4/27/06 UPDATE ---

SAN DIEGO, CA
BB #172536
Sam Produce & Wholesalers.
(Sabah Youkhana, Prop.)
Now incorporated as
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